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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,573	10/31/2003	Majid Entezarian	065640-0221	1572

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FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER

HOPKINS, ROBERT A

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/699,573

Applicant(s)

ENTEZARIAN ET AL.

Examiner

Robert A. Hopkins

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 16-30, 32-34 and 39-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-9, 20-30, 39, 41-43 and 50-57 is/are allowed.
- 6) ☒ Claim(s) 1-4, 16, 17, 19, 32-34, 47, 58 and 59 is/are rejected.
- 7) ☒ Claim(s) 5, 18, 40, 44-46, 48 and 49 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6-23, 6-24, 7-26, 9-7</u> . | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Russell(3433146).

Russell teaches a baffle comprising a plurality of substantially S-shaped baffle members(73), and a frame (50,51,53,54,56,57) configured to hold the baffle members substantially parallel to each other, wherein the baffle is configured to separate a substance from an air stream. Russell further teaches wherein the plurality of baffle members form a plurality of channels, each channel having a single entry opening and a single exit opening.

Claims 16,17, and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wingrove(768415).

Wingrove teaches a baffle for removing a substance from an air stream comprising a plurality of baffle members, the baffle members(g) being substantially parallel to each other and extending between a first side of the baffle and a second side of the baffle, the baffle members defining a plurality of channels each comprising a single entry opening and a single exit opening, wherein the minimum amount the substance must be deflected to pass through each of the plurality of channels is at least 180 degrees. Wingrove further teaches wherein the baffle members

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are substantially S-shaped. Wingrove further teaches wherein the minimum amount the substance must be deflected to pass through each of the plurality of channels is at least approximately 200 degrees.

Claims 58 and 59 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wingrove(768415).

Wingrove teaches a baffle comprising a plurality of substantially S-shaped baffle members; wherein the minimum amount a substance must be deflected to pass through the baffle is at least approximately 180 degrees. Wingrove further teaches wherein the plurality of baffle members define a plurality of channels each of which has a single entry opening and a single exit opening.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russell(3433146) taken together with Brownell et al(6797041).

Russell teaches a kitchen hood comprising a baffle(48) which includes a plurality of S-shaped baffle members, the baffle members being configured to separate one or more entrained substances from an air stream. Russell is silent as to a bed of particles, and wherein the baffle and the bed of particles are positioned in the kitchen hood. Brownell et al teaches a kitchen hood

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comprising a baffle including baffle members and a bed of particles, wherein the baffle and bed of particles are positioned in the kitchen hood. It would have been obvious to someone of ordinary skill in the art at the time of the invention to provide a bed of particles, wherein the bed of particles and baffle are positioned in the kitchen hood of Russell so that the bed of particles remove additional impurities from the air(column 5 lines 41-42 of Brownell et al).

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wingrove(768415) taken together with Yamada et al(5679120).

Wingrove teaches a baffle comprising a plurality of baffle members(g; figures 2 and 3) each of which comprises a base, a first wall and a second wall, the side walls extending outwardly from the same side of the base, a batten(h) configured to hold the baffle members in a substantially parallel relationship with each other, the baffle members also being arranged in at least two offset and opposed rows where the first and second side walls of one baffle member extend toward the first and second walls of the opposed baffle members, wherein the base of at least some of the baffle members in each of the opposed rows of baffle members comprise a recess where the base extends toward a space which is between two adjacent opposed baffle members. Wingrove is silent as to wherein a frame is configured to hold the baffle members in a substantially parallel relationship to each other. Yamada et al teaches a baffle comprising a plurality of baffle members, and a frame configured to hold the baffle members in a substantially parallel relationship with each other. It would have been obvious to someone of ordinary skill in the art at the time of the invention to substitute a frame for the batten member of Wingrove to provide for a more secure framing mechanism of the baffles of Wingrove.

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Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wingrove(768415) taken together with Yamada et al(5679120).

Wingrove teaches a baffle comprising a plurality of baffle members(g; figures 2 and 3) each of which comprises a base, a first wall and a second wall, the side walls extending outwardly from the same side of the base, a batten(h) configured to hold the baffle members in a substantially parallel relationship with each other, the baffle members also being arranged in at least two opposed rows where the first side wall of one baffle member extends toward and overlaps the first side wall of another baffle member in an interlocking relationship and the second side wall of the one baffle member extends toward and overlaps the second side wall of yet another baffle member in an interlocking relationship. Wingrove is silent as to wherein a frame is configured to hold the baffle members in a substantially parallel relationship to each other. Yamada et al teaches a baffle comprising a plurality of baffle members, and a frame configured to hold the baffle members in a substantially parallel relationship with each other. It would have been obvious to someone of ordinary skill in the art at the time of the invention to substitute a frame for the batten member of Wingrove to provide for a more secure framing mechanism of the baffles of Wingrove.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al(5679120) taken together with Brownell et al(6797041).

Yamada et al teaches a kitchen hood comprising a baffle(48) which includes a plurality of baffle members each of which has rounded edges. Yamada is silent as to a bed of particles, and wherein the baffle and the bed of particles are positioned in the kitchen hood. Brownell et al

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teaches a kitchen hood comprising a baffle including baffle members and a bed of particles, wherein the baffle and bed of particles are positioned in the kitchen hood. It would have been obvious to someone of ordinary skill in the art at the time of the invention to provide a bed of particles, wherein the bed of particles and baffle are positioned in the kitchen hood of Yamada so that the bed of particles remove additional impurities from the air(column 5 lines 41-42 of Brownell et al).

#### *Allowable Subject Matter*

Claims 5,18, 40,44,45,46,48,49 are objected to as being dependant upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 5 recites “wherein the plurality of baffle members have rounded edges”. Russell et al does not teach baffle members having rounded edges. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a plurality of S-shaped baffle members having rounded edges because Russell does not suggest such a modification.

Claim 18 recites “wherein the plurality of baffle members have rounded edges”. Wingrove does not teach baffle members having rounded edges. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a plurality of baffle members having a plurality of channels each comprising a single entry opening and a single exit opening, wherein the minimum amount a substance must be deflected to pass through each of the channels is at least 180 degrees, and the baffles having rounded edges because Wingrove does not

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suggest such a modification.

Claim 40 recites “a separation cartridge comprising the baffle recited in claim 16 and a bed of particles”. Wingrove fails to teach a separation cartridge including a baffle and a bed of particles. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a separation cartridge including a baffle recited in claim 16 and a bed of particles because Wingrove does not suggest such a modification.

Claim 44 recites “comprising a mesh filter positioned in the kitchen hood”. Neither Russell nor Brownell et al teach a mesh filter position in the kitchen hood. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a mesh filter positioned in the kitchen hood because neither Russell nor Brownell et al suggest such a modification.

Claim 45 recites “wherein the plurality of baffle members have rounded edges” Neither Russell nor Brownell et al teach wherein the plurality of baffle members have rounded edges. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide baffle members having rounded edges because neither Russell nor Brownell et al suggest such a modification.

Claim 46 recites “comprising a separation cartridge that includes the baffle and the bed of particles, the separation cartridge being mounted in the kitchen hood”. Neither Russell nor Brownell et al individually or together teach a kitchen hood including a separation cartridge that includes a baffle including a plurality of substantially S-shaped baffle members, and a bed of particles, wherein the separation cartridge is mounted in the kitchen hood. It would not have



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been obvious to someone of ordinary skill in the art at the time of the invention to provide a kitchen hood including a separation cartridge that includes a baffle including a plurality of substantially S-shaped baffle members, and a bed of particles, wherein the separation cartridge is mounted in the kitchen hood because neither Russell nor Brownell et al suggest such a modification.

Claim 48 recites “comprising a separation cartridge that includes the baffle and the bed of particles, the separation cartridge being mounted in the kitchen hood”. Neither Yamada nor Brownell et al individually or together teach a kitchen hood including a separation cartridge that includes a baffle including a plurality of baffle members each of which has rounded edges, and a bed of particles, wherein the separation cartridge is mounted in the kitchen hood. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a kitchen hood including a separation cartridge that includes a baffle including a plurality of baffle members each of which has rounded edges, and a bed of particles, wherein the separation cartridge is mounted in the kitchen hood because neither Yamada nor Brownell et al suggest such a modification.

Claim 49 recites “wherein the plurality of baffle members are substantially s-shaped”. Yamada fails to teach a plurality of baffle members which are substantially s-shaped. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a kitchen hood including a baffle including a plurality of baffle members each of which has rounded edges, and a bed of particles, wherein the plurality of baffle members are substantially S-shaped because neither Yamada nor Brownell et al suggest such a modification.

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Claims 6-9,20-30,39,41-43, 50-57 are allowed.

Claims 6,20,24,26, and 28 include subject matter which was persuasively argued by applicant as overcoming the prior art rejections included in the previous office action. Claims 6-9 and 39 depend on claim 6 and hence is also allowed. Claim 27 depends on claim 26 and hence is also allowed. Claims 29 and 30 depend on claim 28 and hence is also allowed. Claim 41 depends on claim 20 and hence is also allowed. Claims 42 depends on claim 24 and hence is also allowed. Claim 43 depends on claim 24 and hence is also allowed.

Claim 50 recites "a separation cartridge comprising: a baffle including a plurality of baffle members each of which has rounded edges; and a bed of particles; wherein the separation cartridge is configured to separate an oleo substance from an air stream in a kitchen hood system". Neither Yamada nor Brownell individually or in combination teach the above limitations. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a separation cartridge comprising: a baffle including a plurality of baffle members each of which has rounded edges; and a bed of particles; wherein the separation cartridge is configured to separate an oleo substance from an air stream in a kitchen hood system because neither Yamada nor Brownell et al suggest such a modification. Claims 51-54 depend on claim 50 and hence are also allowed.

Claim 55 recites "a separation cartridge comprising: a baffle including a plurality of substantially S-shaped baffle members; and a bed of particles; wherein the separation cartridge is configured to separate an oleo substance from an air stream in a kitchen hood system". Neither Russell nor Brownell individually or in combination teach the above limitations. It would not

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have been obvious to someone of ordinary skill in the art at the time of the invention to provide a separation cartridge comprising: a baffle including a plurality of substantially S-shaped baffled members; and a bed of particles; wherein the separation cartridge is configured to separate an oleo substance from an air stream in a kitchen hood system because neither Russell nor Brownell et al suggest such a modification. Claims 56 and 57 depend on claim 55 and hence are also allowed.

### ***Response to Arguments***

Applicant's arguments filed July 26, 2005 have being reviewed but are deemed to be not persuasive.

Applicant argues with respect to claim 1 that Russell does not disclose the baffle being included as part of a separation cartridge that includes another separation medium. Examiner respectfully submits that claim 1 is directed to "a baffle", and Russell clearly anticipates the limitations directed to the structure of the baffle. Examiner respectfully submits that limitations to a baffle being included as part of a separation cartridge are an intended use. Examiner respectfully submits that the limitations to the separation cartridge do not further limit the structure of the "baffle". Examiner notes that several independent claims which recite "a separation cartridge" have been indicated as including allowable subject matter in the current office action, therefore, rewording claim 1 to include the format of a separation cartridge which includes the plurality of substantially S-shaped baffle members, a frame configured to hold the baffle members substantially parallel to each other, and another separation medium, would overcome Russell and Russell taken together with Giles, Sr et al.

Applicant argues with respect to claim 16 that neither Wingrove nor Yamada et al recite

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“wherein the minimum amount the substance must be deflected to pass through each of the plurality of channels is at least approximately 180 degrees”, and “wherein the baffle is configured to separate the oleo substance from the air stream in the kitchen hood system”. Examiner respectfully submits that deleting limitations in claim 16 directed to “a frame which includes a first side and a second side” required changing the rejection from a 103 type obvious rejection to a 102 type anticipation rejection over Wingrove. Examiner respectfully submits that Wingrove clearly teaches all the structural elements of claim 16 required for the baffle, and that the substance removed and the placement of the baffle are both intended uses of the baffle. Examiner respectfully submits applicant has failed to argue that Wingrove does not teach all of the structural elements of the baffle, and is arguing that functional limitations are not properly considered.

Examiner notes section 2114 of the MPEP which states

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987)

Therefore, since Wingrove teaches all of the structural limitations of the claimed baffle, the manner in which the apparatus is to be employed (to separate the oleo substance from the air stream in a kitchen hood system) does not differentiate the claimed baffle from the baffle of Wingrove.

Applicant argues with respect to claim 32 that Russell does not identically disclose the claimed subject matter. Examiner respectfully submits that the amendment to claim 32 required a 103 type obviousness rejection over Russell taken together with Brownell, wherein Brownell clearly provides suggestion for providing a combination of a baffle and bed of particles in a kitchen hood. Examiner notes that Russell in figure 9 provides for a pair of baffles within the kitchen hood, however figure 9 is a single

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embodiment and does not exclude an embodiment which includes a bed of particles along with the baffle.

Applicant argues with respect to claim 33 that Wingrove does not teach or suggest two offset and opposed rows of baffle members. Examiner respectfully disagrees with applicant. Wingrove clearly teaches a baffle in figure 3 which includes two offset and opposed rows of baffle members, wherein the structure is clearly equivalent to the two offset and opposed rows of baffle members shown in figures 4 and 5 of the current drawings. Applicant argues with respect to claim 34 that Wingrove does not teach or suggest two offset and opposed rows of baffle members. However, Examiner cannot locate limitations in claim 34 which recite two offset and opposed rows of baffle members. Clearly the side wall of one baffle member extends toward and overlaps the first side wall of another baffle member in an interlocking relationship as required in claim 34. Examiner also notes that limitations reciting "wherein the baffle is configured to separate an oleo substance from an air stream in a kitchen hood system" are an intended use, and the combination of Wingrove and Yamada clearly teaches all of the structural limitations of the "baffle".

Examiner also notes claim 58 includes a similar intended use statement, and since Wingrove teaches all of the structural limitations of the baffle, claim 58 is clearly anticipated by Wingrove.

Examiner notes that because the current office action is final, and prosecution of the application is closed, amendments and arguments relating to the contents of the current office action should be restricted to clearly placing the limitations of the current claims in condition for allowance by incorporating allowable subject matter indicated in the current office action into the respective claims, or deleting claims.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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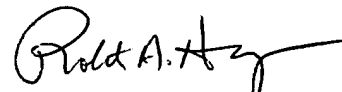
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Hopkins whose telephone number is 571-272-1159. The examiner can normally be reached on Monday-Friday, 7am-4pm, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval(PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR.

Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

RAH  
September 20 , 2005

  
ROBERT A. HOPKINS  
PRIMARY EXAMINER  
17.11.1724